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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,689	10/18/2001	Egon Brauning	UL 3.0-021	8634
27614	7590	11/04/2003	EXAMINER	
ALLEN N. FRIEDMAN, ESQ. C/O MCCARTER & ENGLISH, LLP FOUR GATEWAY CENTER 100 MULBERRY STREET NEWARK, NJ 07102			EDELL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/982,689

Applicant(s)

BRAUNING, EGON

Examiner

Joseph F Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,13-16 and 20-25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 is/are allowed.
- 6) ☒ Claim(s) 1-6,10-12,18,19,26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 26, and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5, 26, and 27 recite the limitation "themselves" in line 3, line 28, and line 31, respectively. There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-6, and 26, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,201,172 to Bliss.

Bliss discloses a seat that is basically the same as that recited claims 1, 3-6, and 26, as best understood, except that the seat lacks molded plywood and grooves formed with cutting, as recited in the claims. See Figures 1-6 of Bliss for the teaching that the seat has a seat plate (Fig. 1) with an upper part 18 (Fig. 3) and a lower part 34 (Fig. 3)

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which lie one above another in layers, lower and upper leg grooves 32,64,66 (Fig. 3) integrally formed in the upper and lower parts of the seat plate, and front and rear legs 20,22 (Fig. 3) with leg extensions 24,26 (Fig. 3) fitted into the grooves wherein the front and rear legs extend from corner regions of the seat plate and each front leg is connected to one of the rear legs thereby forming first and second interconnected pairs and the leg extensions form bows extending to a central region of the seat plate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Bliss such that the layers are made of molded plywood glued together since the applicant discloses on page 1, lines 10-11 of the specification that seats made of molded plywood glued together have been known for a long time. Although the method of forming the lower leg grooves is not specifically recited, forming grooves by cutting would have been obvious to one having ordinary skill at the time of applicant's invention as a matter of engineering choice. Lastly, it would have been an obvious matter of design choice to make the upper part with a greater thickness than the lower part since such a modification would have involved a mere change in size of the upper part. A change in size is generally recognized as being within the level of ordinary skill in the art.

6. Claims 2, 11, 18, and 27, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Bliss as applied to claims 1, 3-6, and 26, as best understood above, and further in view of U.S. Patent No. 3,669,499 to Semplonius et al.

Bliss, as modified, discloses a seat that is basically the same as that recited in claims 2, 11, 18, and 27, as best understood, except that the seat plate upper and lower

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parts do not extend to the backrest, as recited in the claims. Semplonius et al. show a seat similar to that of Bliss wherein the seat has upper and lower parts 10,20 (Fig. 1) that extend over the entire seat plate and backrest. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat of Bliss such that the seats are stackable and upper and lower parts extend over the entire seat plate and backrest, such as the seat disclosed in Semplonius et al. One would have been motivated to make such a modification in view of the suggestion in Semplonius et al. that the upper and lower parts extending over the seat plate and backrest allow support and decorative features for the entire seat.

7. Claim 19, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Bliss in view of Semplonius et al. as applied to claims 2, 11, 18, and 27, as best understood above, and further in view of U.S. Patent No. 3,188,138 to Lockshin.

Bliss, as modified, discloses a seat that is basically the same as that recited in claim 19, as best understood, except the seat lacks a row connector with a clip part, as recited in the claim. Lockshin shows a seat similar to that of Bliss wherein the seat has a row connector including a clip part 30 (Fig. 1) having a central section 36 (Fig. 2) with branching off grasping claws 32 (Fig. 2) on both sides for the legs, and a slide 34 (Fig. 2) releasably fixing the clip part. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat of Bliss such that the seat has a row connector including a clip part having a central section with branching off grasping claws on both sides for the rear legs, and a slide

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releasably fixing the clip part, such as the seat disclosed in Lockshin. One would have been motivated to make such a modification in view of the suggestion in Lockshin that the row connector insures proper row alignment.

Allowable Subject Matter

8. Claim 9 is allowed.

Response to Arguments

9. Applicant's arguments filed 04 August 2003 have been fully considered but they are not persuasive. Applicant argues that Bliss discloses a seat, a separate socket device, and a separate retaining plate which does not anticipate the presently claimed invention wherein the seat plate has an upper part cooperating with a lower part. However, Bliss shows in Figure 3 that the seat plate has an upper part 18 with a lower side having integrally molded lower leg grooves 32, as well as a lower part 34 with an upper side having upper leg grooves 64,66 integrally formed. The applicant has inaccurately interpreted the upper part 18, the leg grooves 32, and the lower part 34 as three separate section when in fact the leg grooves are an integral part of the lower side of the upper part. The remainder of the applicant's arguments state that Bliss fails to disclose or make obvious the present invention because the seat plate is not made from molded plywood, the upper part is not glued to the lower part, and the lower leg grooves are not cut into the lower side of the upper part. However, applicant fails to state why it is believed that modifying the seat of Bliss is unobvious or teaches away from the seat

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disclosed in the reference. Motivation for the modifications was provided in the previous Office Action (Paper No. 6) and is reiterated in the current rejection. Moreover, one would have been motivated to modify the seat of Bliss such that the seat plate has upper and lower parts made from molded plywood that are glued together because of the applicant's own admission on page 1, line 10-11 of the instant application that "[s]eats made of plywood which is glued together have been well know for a long time." Although Bliss does not address how the lower leg grooves of the upper part are formed, it appears that the lower leg grooves may have been incorporated by cutting. Applicant has not disclosed that having the lower leg grooves incorporated by cutting solves any stated problem or is for any particular purpose, and it appears that the lower leg grooves would perform equally well with the grooves being cut into the lower side of the upper part. Accordingly, the lower leg grooves incorporated by cutting are deemed to be a design consideration which fails to patentably distinguish over Bliss.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE
November 2, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600